

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHEVRON CORPORATION,

Plaintiff,

-against-

11 Civ. 0691 (LAK)

STEVEN DONZIGER, et al.,

Defendants.

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SPECIAL MASTERS ORDER NO. 9

Although Ted Dunkelberger previously had been listed as a witness by Chevron not warranting any Special Master supervision, Chevron now requests personal supervision by a Special Master evidently because the witness has retained as his counsel Adlai Small, of counsel at the Patton Boggs firm. Mr. Weitzman, counsel for Chevron, suggests that Mr. Small may be an obstructionist at the Dunkelberger deposition “[g]iven the motion practice that occurred in connection with discovery requests of Patton Boggs and other third parties represented by Patton Boggs, as well as the challenges we had scheduling the deposition of Mr. Dunkelberger once Patton Boggs began representing him[.]” Defendants oppose Chevron’s request.

This request by Chevron, on this ground, is at best premature. We are not prepared simply to assume that Mr. Small will behave in an obstructionist manner at the deposition. Were he to do so, there are a host of remedies available to the Special Master, including a continuation of the deposition and extension of the deposition time, the latter of which is mandatory in the event “the deponent, another person, or any other circumstance impedes or delays the examination.” Fed. R. Civ. P. 30(d)(1).

Provided sufficient advance notice is given, a Special Master will be available by phone on the date of the Dunkelberger deposition. Except to that extent, Chevron's application is denied, without prejudice to a renewed application, including an application on a phone call during the deposition, in the event circumstances warranting further intervention by a Special Master develop during Mr. Dunkelberger's deposition.

A copy of this Order shall be delivered by Chevron to counsel for the witness together with Special Masters Order No. 3, ECF No. 1058.

Dated: May 13, 2013
New York, New York

/s/ Theodore H. Katz
Theodore H. Katz, Special Master

/s/ Max Gitter
Max Gitter, Special Master